

AMENDED IN ASSEMBLY JUNE 15, 2011

AMENDED IN SENATE MAY 23, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 568

Introduced by Senator Lowenthal

(~~Coauthor: Assembly Member~~ *Coauthors: Assembly Members Brownley
and Wieckowski*)

February 17, 2011

An act to add Chapter 6.6 (commencing with Section 42391) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as amended, Lowenthal. Recycling: polystyrene food containers.

Existing law requires all rigid plastic bottles and rigid plastic containers sold in the state to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would prohibit a food vendor, on and after January 1, ~~2014~~ 2016, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms. The bill would provide that a food vendor that is a school district is not required to comply with the bill's requirements until July 1, ~~2015~~ 2017, and would allow a food vendor that is a school district to dispense prepared food to a customer in a polystyrene foam food container after that date if the

governing board of the school district elects to adopt a policy to implement a verifiable recycling program for polystyrene foam food containers. The bill would also allow a food vendor to dispense prepared food to a customer in a polystyrene foam food container after January 1, ~~2014~~ 2016, in a city or county if the city or county elects to adopt an ordinance establishing a specified recycling program for polystyrene foam food containers.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.6 (commencing with Section 42391)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 6.6. POLYSTYRENE FOAM FOOD CONTAINERS
6

7 42391. For the purposes of this chapter, the following terms
8 have the following meanings:

9 (a) “Customer” means a person obtaining prepared food from
10 a food vendor.

11 (b) (1) “Polystyrene foam food container” means a container
12 made of thermoplastic petrochemical material utilizing the styrene
13 monomer, that meets all of the following conditions:

14 (A) Polystyrene is the sole resin used to produce the rigid plastic
15 packaging container.

16 (B) The container is required to be labeled with a “6” pursuant
17 to subdivision (a) of Section 18015.

18 (C) The container is used, or is intended to be used, to hold
19 prepared food.

20 (2) A polystyrene foam food container may be processed by a
21 number of techniques, including, but not limited to, fusion of
22 polymer spheres or expandable bead polystyrene.

23 (3) Polystyrene foam may also be referred to as Styrofoam™,
24 a Dow Chemical Company trademarked form of polystyrene foam
25 insulation.

26 (4) A polystyrene foam food container includes, but is not
27 limited to, a cup, bowl, plate, tray, or clamshell container that is
28 intended for single use.

1 (c) (1) “Food vendor” means a food facility, as defined in
2 Section 113789 of the Health and Safety Code, including, but not
3 limited to, a restaurant or retail food and beverage vendor located
4 or operating within the state.

5 (2) A food vendor also includes, but is not limited to, an itinerant
6 restaurant, pushcart, vehicular food vendors, a caterer, a cafeteria,
7 a store, a shop, a sales outlet, or other establishment, including a
8 grocery store or a delicatessen.

9 (3) A food vendor does not include a correctional facility,
10 including, but not limited to, a state prison, county jail, facility of
11 the Division of Juvenile Justice, county- or city-operated juvenile
12 facility, including juvenile halls, camps, or schools, or other state
13 or local correctional institution.

14 (d) “Prepared food” means food, as defined in Section 109935
15 of the Health and Safety Code, including a beverage, that is served,
16 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
17 squeezed, or otherwise prepared for consumption. Prepared food
18 includes “ready-to-eat food,” as defined in Section 113881 of the
19 Health and Safety Code.

20 (1) “Prepared food” does not include raw, butchered meats, fish,
21 or poultry that is sold from a butcher case or a similar retail
22 appliance.

23 (2) “Prepared food” may be eaten either on or off the premises,
24 and includes takeout food.

25 (e) “Recycled” means the product or material is reused in the
26 production of another product and is diverted from disposal in a
27 landfill.

28 42392. Except as provided in Sections 42393 and 42394, on
29 and after January 1, ~~2014~~ 2016, a food vendor shall not dispense
30 prepared food to a customer in a polystyrene foam food container.

31 42393. (a) A food vendor that is a school district, as defined
32 in Section 80 of the Education Code, is not required to comply
33 with Section 42392 until July 1, ~~2015~~ 2017.

34 (b) On and after July 1, ~~2015~~ 2017, a food vendor that is a school
35 district may dispense prepared food to a customer in a polystyrene
36 foam food container if the governing board of the school district
37 elects to adopt a policy to implement a verifiable recycling program
38 for polystyrene foam food containers where there is a reasonable
39 likelihood that at least 60 percent of the polystyrene foam food

1 containers purchased annually by that school district will be
2 recycled.

3 42394. On and after January 1, ~~2014~~ 2016, a food vendor may
4 dispense prepared food to a customer in a polystyrene foam food
5 container in a city or county if either of the following apply:

6 (a) The city elects to adopt an ordinance establishing a recycling
7 program for polystyrene foam food containers for which the city
8 makes a finding, by a majority vote of the city council at a public
9 hearing, that, based on empirical data, there is a reasonable
10 likelihood that at least 60 percent of the polystyrene foam food
11 containers generated annually in the city will be recycled by that
12 program.

13 (b) The county elects to adopt an ordinance establishing a
14 recycling program for polystyrene foam food containers for which
15 the county makes a finding, by a majority vote of the board of
16 supervisors at a public hearing, that, based on empirical data, there
17 is a reasonable likelihood that at least 60 percent of the polystyrene
18 foam food containers generated annually in the county will be
19 recycled by that program.

20 42395. This chapter does not preempt the authority of a county,
21 city, or city and county to adopt and enforce additional single-use
22 takeout food packaging ordinances, regulations, or policies that
23 are more restrictive than the applicable standards required by this
24 chapter.

25 42396. The provisions of this chapter are severable. If any
26 provision of this chapter or its application is held invalid, that
27 invalidity shall not affect other provisions or applications that can
28 be given effect without the invalid provision or application.